

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DALLAS L. HUSTON,

Petitioner,

vs.

SCOTT R. FRAKES,

Respondent.

8:20CV20

MEMORANDUM AND ORDER

This matter is before the court on Petitioner's motion to appoint counsel. ([Filing 15](#).) "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment] is committed to the discretion of the trial court." *McCall v. Benson*, 114 F.3d 754, 756 (8th Cir. 1997). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. *See, e.g., Morris v. Dormire*, 217 F.3d 556, 558-59 (8th Cir. 2000), *cert. denied*, 531 U.S. 984 (2000); *Hoggard v. Purkett*, 29 F.3d 469, 471 (8th Cir. 1994). *See also* Rule 8(c) of the *Rules Governing Section 2254 Cases in the United States District Courts* (requiring appointment of counsel if an evidentiary hearing is warranted). The court has carefully reviewed the record and finds there is no need for the appointment of counsel at this time.

IT IS THEREFORE ORDERED that:

1. Petitioner's motion to appoint counsel ([filing 15](#)) is denied without prejudice to reassertion.
2. Petitioner is advised that he has until August 5, 2020 to file and serve a brief in opposition to Respondent's motion for summary judgment.

Dated this 24th day of July, 2020.

BY THE COURT:

A handwritten signature in blue ink that reads "Richard G. Kopf". The signature is written in a cursive, flowing style.

Richard G. Kopf
Senior United States District Judge